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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,036	10/25/2001	David B. Hollenbeck	eDave-USFull	6488

33549 7590 07/13/2004

SANTANGELO LAW OFFICES, P.C.  
125 SOUTH HOWES, THIRD FLOOR  
FORT COLLINS, CO 80521

EXAMINER
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BORISSOV, IGOR N

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/015,036	<b>Applicant(s)</b> HOLLENBECK ET AL.	
	<b>Examiner</b> Igor Borissov	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "*said consumer purchase credit value*" in step I). There is insufficient antecedent basis for this limitation in the claim.

The remaining claims are rejected as being dependent on claim 1.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Klingman (US 5,950,172).

Claim 18. Klingman teaches a method and system for remote on-line evaluation system for evaluating goods based upon consumer's satisfaction, including a product database and a consumer inputting means such as a computer or a telephone for inputting evaluation opinion of purchasing a product. During purchasing a product, a buyer's ID is stored in a database; and consumer rating of an identified product become

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available for the buyer (C. 5, L. 55 – C. 6, L. 49; C. 10. L. 7-8). Klingman further teaches, that if a user wants to add his/her evaluation opinion into said database, the access to said database is permitted upon evaluation of user's ID (C. 26, L. 47-49).

Claim 19. Said method, wherein communication is utilized over the telephone (C. 6, L. 45-47).

Claim 20. Said method, wherein consumer information, such as caller's identification number, is utilized (C. 6, L. 5-7).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman in view of Suzuki (US 6,129,274).

Klingman teaches said method and system for remote on-line evaluation system for evaluating goods based upon consumer's satisfaction, including a product database and a consumer inputting means such as a computer or a telephone for inputting evaluation opinion of purchasing a product. During purchasing a product, a buyer's ID is stored in a database; and consumer rating of a desired product become available for the buyer (C. 5, L. 55 – C. 6, L. 49; C. 10. L. 7-8). Klingman further teaches, that if a user wants to add his/her evaluation opinion into said database, the access to said database is granted if user's ID matches with one in a "voter list" (C. 6, L. 30-34).

However, Klingman does not specifically teach that that access to said product database is granted upon achieving a threshold value of some aspect of said database.

Suzuki teaches a method and system for updating shopping transaction history, wherein a customer is granted with access to discounted promotional

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products when customer's loyalty point total has exceeded a particular threshold value (C. 7, L. 23-24; 56-57). The customer's loyalty point total is adjusted in real-time with each transaction (C. 8, L. 24-29).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Klingman to include that access to said product database is restricted based on achieving a threshold value of loyalty point, as disclosed in Suzuki, because it would stimulate customers to spend more money.

Claim 2. Klingman teaches accessing information over the telephone (C. 6, L. 45-46), thereby obviously indicating providing information in immediately assimilatable format.

Claims 3 and 12. See claim 1.

Claim 4. Said method, including: accepting scanned Universal Product Code information input (C. 8, L. 64).

Claim 5. Klingman teaches accepting a phone access (C. 6, L. 45-46). Information as to *cell* phone is non-functional language and given no patentable weight. Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. *See: In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) *In re Dembiczak* 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999).

Claim 7. Suzuki teaches obtaining product information input (C. 7, L. 23-24; 56-57). Information as to *simplified* product information input is non-functional language and given no patentable weight. Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. *See: In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) *In re Dembiczak* 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999).

Claim 8. Using a computer for obtaining product information input obviously indicates the step of prompting a binary input.

Claim 9. See claim 8. Information as to *a positive input, a negative input, and a neutral input* is non-functional language and given no patentable weight.

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Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. See: *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) *In re Dembiczak* 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999).

Claim 10. See claim 8. Information as to *sequenced input* is non-functional language and given no patentable weight. Non-functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious. See: *In re Gulack* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) *In re Dembiczak* 175 F.3d 994, 1000, 50 USPQ2d 1614, 1618 (Fed. Cir. 1999).

Claim 11. Klingman and Suzuki teach all the limitations of claim 11, except specifically teaching that said data having a hierarchical information structure.

Official notice is taken that it is well know to organize data in hierarchical manner (See for example, Microsoft © Windows).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Klingman and Suzuki to include that said data is organized in hierarchical manner, because it would simplify the management of said data.

Claim 13. Klingman teaches said method including establishing an integrity tag (C. 17, L. 40-41; C. 18, L. 7-10).

Claim 14. Suzuki teaches forming a user profile based on information exchanged (C. 5, L. 66 – C. 6, L. 14).

Claim 15. Suzuki teaches offering a promotional discount (C. 7, L. 55-57).

Claim 16. Suzuki teaches providing said consumer data in real time environment (C. 8, L. 25).

Claim 17. Klingman teaches determining the permissibility of user access (C. 26, L. 47-49).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klingman and Suzuki in view of Ogasawara (US 6,577,861).

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Klingman and Suzuki teach all the limitations of claim 6, except teaching scanning product identification information through an integral cell phone feature.

Ogasawara teaches a method and system for electronic shopping system utilizing a program downloadable wireless telephone, wherein said wireless telephone includes a bar code scanner which is build into said phone as integral unit (C. 4, L. 51-55).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Klingman and Suzuki to include a bar code scanner which is built into a wirreless phone as integral unit, as disclosed in Ogasawara, because it would allow to save funds needed for maintaining a dedicated personal shopping system terminal, as specifically disclosed in Ogasawara (C. 2, L. 30-34).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form PTO-892).

The best foreign art uncovered by the examiner is WO 98/04083 to Hamrick, disclosing a remote communication system for on-line evaluation of goods based upon consumer' satisfaction through electronic media.

Any inquiry concerning this communication should be directed to Igor Borissov at telephone number (703) 305-4649.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

Supervisor, John Weiss, can be reached at (703) 308-2702.

Any response to this action should be mailed to:

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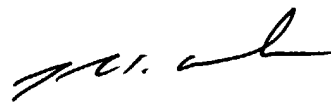
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***Washington D.C. 20231***

or faxed to:

**(703) 872-9306** [Official communications; including After Final  
communications labeled "Box AF"]

Hand delivered responses should be brought to Crystal Park 5, 2451  
Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.



JOHN G. WEISS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600